

2009 DRAFTING REQUEST

Bill

Received: **09/23/2008**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2214**

By/Representing: **Palchik**

This file may be shown to any legislator: **NO**

Drafter: **tdodge**

May Contact:

Addl. Drafters:

Subject: **Health - medical assistance**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Palchik, BB0080 -

Topic:

Medicaid targeted case management

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|------------------------|------------------------|----------------|-----------------------|-----------------|-----------------|
| /? | tdodge 10/17/2008 | csicilia 10/23/2008 | | | | | |
| /P1 | | | jfrantze 10/23/2008 | | cduerst 10/23/2008 | | |

FE Sent For:

<END>

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|--------------|----------------|-------------------|--------------|----------------|------------------|-----------------|-----------------|
| /? | tdodge | Pl gs 10/22 08 | J6 | Self 10/22 | | | |

FE Sent For:

<END>

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Medicaid Targeted Case Management
- Tracking Code: BB0080
- SBO team: Health and Insurance
- SBO analyst: Laurie Palchik
 - Phone: 266-2214
 - Email: laurie.palchik@wisconsin.gov
- Agency acronym: DHS
- Agency number: 435
- Priority (Low, Medium, High): Medium

Intent:

Amend s. 49.45(25)(bg) to reference only centers that receive funding under s. 46.96(2), rather than to s. 46.96(1)(ah). (See Attached)

Medicaid Targeted Case Management

Decision Needed

What statutory language changes are necessary to ensure that only independent living centers recognized by the Department receive Medicaid targeted case management funds?

Background

Independent living centers (ILCs) are 501 (3) (c) nonprofit organizations. Wisconsin statutes (s.46.96) define an independent living center as a community-based, nonresidential private nonprofit agency that vests power and authority in individuals with disabilities, that is designed and operated within a local community by individuals with disabilities and that provides an array of independent living services, including independent living core services, on a cross-disability basis.

Section 46.96 (2) further specifies that the Department shall make grants from 20.435 (7)(c) and (kc) to ILCs for nonresidential services to severely disabled individuals. Funding for these appropriations comes from the state and the federal governments, respectively. Currently the Department provides this funding to eight federally-recognized ILCs.

Under s. 49.45 (25)(bg) of the statutes, ILCs that are certified case management providers under Medicaid may elect to provide case management services to Medicaid recipients. The non-federal match for these costs is to be provided by non-federal, public funds received by the ILC from a county, city, village or town, or from a grant under s.46.96. These ILCs are able to bill Medicaid for the targeted case management (TCM) services they provide. Medicaid reimburses the federal share of the claim.

Some agencies which call themselves ILCs do not receive public funding and are not recognized as such by the Department. The Department does not provide these agencies with funding from the ILC appropriations. These agencies are not eligible to claim TCM funding because they do not have public funding for the match.

Current statutory language creates confusion because of its imprecise reference regarding the definition of an independent living center (ILC). As currently referenced, it is not clear that only entities receiving funding from the Department's two appropriations are eligible to bill for TCM under s.49.45 (25)(bg). In practice, whenever the Department refers to an ILC, it refers only to entities that receive funding under the authority of s.46.96 (2) of the statutes. By eliminating the precise reference to subparagraph (1) (ah) under s.46.96, it will be clear that an entity seeking Medicaid case management certification to claim TCM funding must meet all conditions stated in s.46.96, including the requirement of receiving funding from the Department under s.46.96 (2).

ILCs which are not recognized by the Department have advanced claims for reimbursement for TCM costs based on the current language in s.46.96. In one case, funds were inadvertently given to an ineligible provider. The Department is currently in the process of reclaiming these funds. To avoid the inappropriate provision of state funding to these ILCs, it is necessary to make a change in the Medicaid definition of an ILC.

If this change is not made, the statutes will remain inconsistent with actual practice and the Department will remain open to challenges on this decision not to certify certain entities as case management agencies.

This change does not require federal approval.

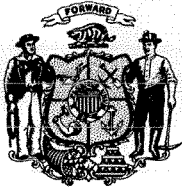
Current Language

s.49.45(25)(bg)

Proposed Change

Amend s.49.45(25)(bg) to reference only centers that receive funding under s.46.96 (2), rather than to s.46.96 (1)(ah).

| | |
|--------------------------------|--|
| Desired Effective Date: | Upon passage of the Biennial Budget bill |
| Agency: | DHS |
| Agency Contact: | Ellen Hadidian |
| Phone: | 266-8166 |



State of Wisconsin
2009 - 2010 LEGISLATURE

In 10/17/08

LRB-0375?

TJD: /:...

ys Rmnr

DOA:.....Palchik, BB0080 - Medicaid targeted case management

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT /; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES ✓

MEDICAL ASSISTANCE ✓

Under current law, certain Medical Assistance beneficiaries may receive case management services. These services, when provided by independent living centers, are funded in part by the federal Medical Assistance program with the remainder funded by a county, city, village, or town or by a grant from DHS. Independent living centers may receive a grant from DHS to provide nonresidential services to severely disabled people. To receive a grant from DHS, the independent living center must satisfy certain conditions including complying with federal regulations to obtain federal funding.

This bill clarifies that only independent living centers satisfying the criteria to receive a grant from DHS may be reimbursed for targeted case management services through the Medical Assistance program. *

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 46.96 (1) (ap) of the statutes is amended to read:

1 46.96 (1) (ap) "Independent living services" has the meaning given under 29
2 USC 706 (30) 29 USC 705 (18).

History: 1983 a. 27; 1985 a. 29 ss. 903, 903m, 3202 (23); 1985 a. 120; 1989 a. 31; 1993 a. 16; 1995 a. 27, 398.

3 **SECTION 2.** 46.96 (1) (at) of the statutes is amended to read:

4 46.96 (1) (at) "Individual with ⁽²⁾disability" has the meaning given under 29 USC
5 706 (8) (B) 29 USC 705 (20).

History: 1983 a. 27; 1985 a. 29 ss. 903, 903m, 3202 (23); 1985 a. 120; 1989 a. 31; 1993 a. 16; 1995 a. 27, 398.

6 **SECTION 3.** 49.45 (25) (bg) of the statutes is amended to read:

7 49.45 (25) (bg) An independent living center, as defined in s. 46.96 (1) (ah), that
8 is a certified case management provider and satisfies the criteria in s. 46.96 (3m) (a)
9 1. to 3. and (am). may elect to provide case management services to one or more of the categories
10 of medical assistance beneficiaries specified under par. (am). The amount of
11 allowable charges for the services under the medical assistance program that is not
12 provided by the federal government shall be paid from nonfederal, public funds
13 received by the independent living center from a county, city, village or town or from
14 funds distributed as a grant under s. 46.96.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909j; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38, 57, 67, 104, 109; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441; 2007 a. 20 ss. 1513 to 1559h, 9121 (6) (a); 2007 a. 90, 97, 104, 141, 153.

(END)

2-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0375/2dn

TJD:.....

js

To Laurie Palchik:

Please review this draft with respect to the following:

1. Is it sufficient to require that for an independent living center to provide case management services to Medical Assistance beneficiaries it must satisfy the criteria of 46.96 (3m) (a) 1. to 3. and not necessarily receive a grant from the state? I am wondering if an independent living center may meet all of the criteria for a state grant but receive its nonfederal funding from a county or city. Section 49.45 (25) (bg) indicates this is a possibility, and requiring the independent living center to have a state grant may create a conflict with that section. I have drafted the amendment to section 49.45 (25) (bg) to require the independent living center to meet the criteria set forth in section 46.96 (3m) (a) 1. to 3. Please let me know if you want this changed.
2. Some of the references to federal law in the definitions of section 46.96 were no longer correct. I have corrected them in this draft. Please let me know if you do not want to incorporate those corrections in the draft.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0375/P1dn

TJD:cjs:jf

October 23, 2008

To Laurie Palchik:

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E-mail: tamara.dodge@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0375/P1

TJD:cjs:jf

DOA:.....Palchik, BB0080 - Medicaid targeted case management

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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SECTION 2. 46.96 (1) (at) of the statutes is amended to read:

46.96 (1) (at) “Individual with a disability” has the meaning given under 29 USC 706 (8) (B) 29 USC 705 (20).

SECTION 3. 49.45 (25) (bg) of the statutes is amended to read:

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(END)